

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

WILLIAM C. BLOOMQUIST,	)	
	)	
Plaintiff	)	
	)	
v.	)	Civil No. 02-137-P-H
	)	
TOWN OF BRIDGTON, et al.,	)	
	)	
Defendants	)	

**RECOMMENDED DECISION ON MOTION FOR  
TEMPORARY RESTRAINING ORDER**

Pending in this court is a complaint filed by William Bloomquist against multiple defendants seeking remedy for alleged interference with employee and employer rights, defamation, assault and battery, malicious prosecution, intentional infliction of emotional distress, negligent infliction of emotional distress, and perjury. (Docket No. 1-A.)<sup>1</sup>

Before me now is a motion for a temporary restraining order filed by Bloomquist asking this court to restrain two non-defendants. Bloomquist wants this court to enjoin the Northern Carroll County, New Hampshire District Court and the Cumberland County

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<sup>1</sup> This action was removed from the Maine Superior Court by defendant Town of Bridgton based on its assertion that the complaint alleges violations of Bloomquist's federal constitutional rights. It is true that in ¶ 4 of the complaint Bloomquist alleges that certain named individuals did "intentionally, willfully, and maliciously interfere with the Civil Rights granted to Plaintiff by the United States Constitution." Other than this passing reference, the complaint appears to set forth state law tort claims.

In this recommended decision I am addressing only the motion for a temporary restraining order; in no way should my recommended disposition of this motion be interpreted as suggesting that this court does or does not have subject-matter jurisdiction over the removed complaint. This is a concern that may still need to be addressed even though Bloomquist did not move for remand. See Cellilli v. Cellilli, 939 F.Supp. 72, 79 (D. Mass. 1996) (observing that subject matter jurisdiction cannot be conferred on federal courts by consent and recognizing the federal court's obligation to remand a removed case sua sponte if there is no subject matter jurisdiction). In the event the court is concerned about its subject-matter jurisdiction over this underlying complaint, it could issue an order to show cause why the case should not be remanded to the state court, giving all parties an opportunity to respond to those concerns. Clearly if the pro se plaintiff intended to plead a federal constitutional violation, this court would have subject-matter jurisdiction to adjudicate that claim.

District Attorney's Office in Portland, Maine, from enforcing a final stalking order by the New Hampshire Court and to set a hearing on a preliminary injunction. (Docket No. 13.) I now recommend that the Court **DENY** Bloomquist's motion for a temporary restraining order and summarily **DISMISS** this request for injunctive relief.

***Nature of the Bloomquist Civil Action***

As best as can be culled from the allegations, the events underlying this suit turn on the acrimonious relationship between Bloomquist, who resides in Maine, and Scott Floccher and Susan Benfield, who reside in New Hampshire.<sup>2</sup> Bloomquist complains that Floccher and Benfield, along with various other private individuals and public employees have injured him in a series of interactions. Part of the drama is a hearing, apparently on Floccher's harassment complaint against Bloomquist, held in the Bridgton, Maine District Court on April 11, 2001, at which Bloomquist, his employer, attorney Douglas Hendrick, Floccher, and Benfield were present and violence erupted. Bloomquist faults the Bridgton Police Department and the Cumberland County Sheriff's Department<sup>3</sup> for not taking action to protect Bloomquist from Floccher on this occasion. Bloomquist contends that Floccher brought the false claims of harassment to prevent Floccher's ex-wife, Linda Gilbert, from retaining the services of Attorney Hendrick and Bloomquist, who was employed as an investigator, paralegal and legal assistant for Hendrick. Bloomquist also faults Floccher and Benfield for obtaining a protection from stalking order from a court in Carroll County, New Hampshire, in retaliation for

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<sup>2</sup> Bloomquist also alleges that named-defendants Roxanna Hagerman and Woody Woodward conspired with Floccher and Benfield, faulting them for statements made and actions taken on behalf of Floccher and Benfield. These defendants have filed answers. Bradford Moore and Heidi Moore are also listed as defendants in the complaint caption, as are "other unknown persons," but there are no allegations implicating them.

<sup>3</sup> Not yet ready for decision is the Cumberland County Sheriff's Department's motion for summary judgment. (Docket No. 11)

Bloomquist's investigation of and testimony against Floccher and Benfield, testimony that contributed to the removal of children from the Floccher/Benfield home.

***Relief Sought in the Motion for a Temporary Restraining Order***

Bloomquist states that he is in danger of immediate and irreparable injury, loss, and damage as a consequence of the defendants'<sup>4</sup> "unconstitutional legal proceedings" in New Hampshire. He claims that a final restraining order violated his right to due process as: eleven appeals were rebuffed by the New Hampshire district court and the New Hampshire Supreme Court denied cert without explanation; there was an unlawful exercise of territorial jurisdiction by the New Hampshire Courts as all the events underlying the stalking order occurred in Maine; and the New Hampshire Court made many trial errors including improperly placing the burden of proof on Bloomquist rather than Benfield and Floccher, applying an improper legal standard, not notifying Bloomquist of a police report about the April 11, 2001, court incident that Bloomquist contends is false, and considering allegations outside the stalking petition.

Bloomquist further faults the New Hampshire court for its unsupported findings of fact; its inflammatory and prejudicial statements made from the bench (directed at Benfield and Floccher) on the basis of an ex-parte police report; and the description of Bloomquist's actions as "reprehensible and repulsive" when it dismissed Floccher's

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<sup>4</sup> It is not clear here whether Bloomquist is referring to the defendants in his civil action or to only those entities he has served with this motion, the Office of the District Attorney, Cumberland County, Maine, Judge Patten of the Northern Carroll County District Court, New Hampshire, and Susan Benfield. I also note that Bloomquist has captioned this motion by describing himself as the respondent and Benfield (and no others) as the petitioner, almost as if this motion were to be filed in the New Hampshire stalking case that Benfield brought against Bloomquist. When the motion arrived at the Portland Courthouse on Friday, September 6, 2002, it was accompanied by a civil cover sheet, suggesting that Bloomquist intended to file a new civil action in this court. According to the clerk, the motion was unaccompanied by the requisite \$150.00 filing fee and when questioned by clerical personnel Bloomquist indicated that it was his intent to file this motion as part and parcel of CV-02-137. It has been referred to me in that context, but even if Bloomquist had properly filed his motion as a separate action involving different defendants and a different cause of action, it would still be subject to summary dismissal for the reasons stated herein.

petition for a stalking order. Bloomquist asserts that this final order violates the principals of res judicata because the order stemming from the April 11, 2001, Maine proceeding addressed “identical matters” and was in Bloomquist’s favor.<sup>5</sup> He also asserts that the order is unconstitutionally vague vis-à-vis the geographical restrictions as there is no identification of the residential and work cites that Bloomquist is forbidden near, it is unclear what the requirement “relinquish all deadly weapons” comprehends, and this and the requirement that he relinquish all firearms and ammunition infringes his second amendment rights.<sup>6</sup>

In addition to these concerns with the New Hampshire court’s role, Bloomquist asserts that Benfield, Floccher, and the Cumberland County authorities conspired to violate his civil and constitutional rights (including Second Amendment rights) by knowingly and intentionally suborning false testimony.<sup>7</sup> He complains particularly of Benfield’s eleven sworn statements in which she represented that Bloomquist assaulted her during the Bridgeton Court episode, that she had a valid restraining order in Maine against Bloomquist, and that he slashed her tires in the Courthouse parking lot and then stole the police surveillance tape of the incident.

With respect to his “extraordinary circumstances” showing, Bloomquist anticipates future injury. He states that the prosecution of him for any violations of the New Hampshire stalking order would be in bad faith, to harass him, and take place before a tribunal that has proven itself biased. He contends that any enforcement effort by

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<sup>5</sup> Bloomquist notes that he has a protection from harassment order against Floccher and has this action pending in federal court. He represents that he dropped his Maine protection from harassment order against Benfield in October 4, 2001, based on her attorney’s representation that Benfield had moved away and would not bother Bloomquist any more.

<sup>6</sup> Bloomquist also attacks the New Hampshire judge who signed a temporary restraining order for relying on false evidence submitted ex parte, including a police report and newspaper articles.

<sup>7</sup> Bloomquist complains that the false information used to discredit him included a police report that indicated he lived in Lovell, Maine with Floccher’s ex-wife, whereas he lives in Baldwin, Maine.

Cumberland County would be a conflict of interest because of Bloomquist's multiple pending lawsuits against its District Attorney's Office and the Sheriff's Department. He alleges that the Cumberland County District Attorney's Office is considering bringing charges based on a violation of the New Hampshire Order and that Benfield is attempting to bring further criminal charges and contempt proceedings in New Hampshire. Bloomquist enumerates seven ways in which these entities have violated his constitutional rights.

### *Disposition*

When the motion is read in the context of the underlying complaint several structural problems jump out. First the relief that Bloomquist seeks in this motion for injunction is not temporally related to the complaint before this court, though his allegations may be connected to the morass of alleged wrongs and ill motives that Bloomquist attributes to the defendants in this action. Second, Bloomquist wants this Court to enjoin the New Hampshire District Court and the Cumberland County District Attorney's Office, neither entity which is a named defendant in this action. Third, and most importantly, Bloomquist cannot use an action in a federal district court in Maine (or any other federal district court, in my opinion) to attack the validity of the New Hampshire stalking order.

And this is the overarching problem with this motion: in essence it asks this federal district court to relitigate the issues decided by the New Hampshire state courts. The United States Supreme Court has made it crystal clear, one, that it is impermissible for the District Court to revisit the merits of a state court decision in a separate federal action, see D.C. Ct. Appeals v. Feldman, 460 U.S. 462, 482 (1983); Rooker v. Fidelity

Trust Co., 263 U.S. 413, 416 (1923), and, two, that injunctive relief from the federal courts is not available vis-à-vis pending state criminal or civil proceedings absent extraordinary circumstances, see Huffman v. Pursue, Ltd., 420 U.S. 592 (1975); Younger v. Harris, 401 U.S. 37 (1971); Fenner v. Boykin, 271 U.S. 240 (1926).

That Bloomquist is attempting to attack the validity of the stalking order by the New Hampshire Court in this motion for injunctive relief is undeniable. The District Court for the District of Oregon addressed almost this precise issue in Bill v. City of Portland, 2000 WL 268533 (D. Or. 2000) (Stewart, Magis.), wherein the plaintiff, Fairly Honest Bill, sought an order enjoining the city from enforcing outstanding stalking protective judgments issued against Bill.<sup>8</sup> Addressing the jurisdictional concern under Federal Rule of Civil Procedure 12(b)(1), the Court concluded that in light of the Rooker/Feldman doctrine Bill could not lodge his “as applied” attack on the stalking orders in the federal court. Id. at \*3-4. The Court stated:

Assuming that Bill has some non-frivolous basis for avoiding application of those decisions, then he could have made the appropriate argument in the prior state court proceedings and, upon obtaining an adverse ruling, filed an appeal to correct or modify the trial court's judgment. It is unknown if Bill did so. If he did so, then he cannot file a case in this court in order to bypass the state appellate process.

Id. at \*4. Bloomquist protests that he made eleven “appeals” to the New Hampshire District Court and that the New Hampshire Supreme Court rejected his appeal. If Bloomquist wants federal review of this stalking judgment his only recourse is to the United States Supreme Court. Rooker, 263 U.S. at 416.

To the extent that Bloomquist seeks remedies for constitutional violations stemming from searches, firearm restrictions, the “taking” of property, and any other

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<sup>8</sup> Bill also sought compensatory damages for his arrest and incarceration and attorney fees.

claimed constitutional violations, he would have to file a complaint alleging those constitutional deprivations in a proper forum, naming and serving the designated defendants. They are not subjects for injunctive relief in this pending case.

### CONCLUSION

Based upon the foregoing, I recommend that the court **DENY** Bloomquist's request for a temporary restraining order and summarily **DISMISS** the pleading at Docket No. 13 based on the Rooker/Feldman doctrine.

### NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

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Margaret J. Kravchuk  
U.S. Magistrate Judge

Dated September 11, 2002

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STNDRD

U.S. District Court  
District of Maine (Portland)

CIVIL DOCKET FOR CASE #: 02-CV-137

BLOOMQUIST v. BRIDGTON, TOWN OF, et al  
06/20/02

Filed:

Assigned to: JUDGE D. BROCK HORNBY

Referred to: MAG. JUDGE MARGARET J. KRAVCHUK

Demand: \$0,000

Nature of Suit: 440

Lead Docket: None  
Question

Jurisdiction: Federal

Dkt # in Cumberland Superior : is 02-cv-250

Cause: 28:1331 Fed. Question: Civil Rights Violation

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